

MINUTES

MONTANA SENATE AND HOUSE 58th LEGISLATURE - REGULAR SESSION

JOINT COMMITTEE ON JUDICIARY

Call to Order: By **CO-CHAIRMAN DUANE GRIMES** and **CO-CHAIRMAN JIM SHOCKLEY**, on February 5, 2003 at 8:00 A.M., in Room 303 Capitol.

ROLL CALL - SENATE JUDICIARY

Members Present:

Sen. Duane Grimes, Chairman (R)
Sen. Dan McGee, Vice Chairman (R)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jeff Mangan (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

ROLL CALL- HOUSE JUDICIARY

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. George Everett (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Michael Lange (R)
Rep. Bruce Malcolm (R)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)

Rep. John Parker (D)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Scott Sales (R)
Rep. Ron Stoker (R)
Rep. Bill Thomas (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 13, SB 37, SB 317, SB 318, HB
140, HB 195, HB 500, 1/31/2003

Executive Action:

CO-CHAIRMAN SEN. DUANE GRIMES explained the procedure for the meeting in regard to sequence of bills and manner of presentation, **EXHIBIT(jus25a01)**. He further noted a subcommittee would be appointed with equal representation from each House. The subcommittee meeting was scheduled immediately following the hearing. The intent of the Joint Committee was to create one omnibus bill. In addition to the seven bills on the agenda, HB 197 has been included in the cross reference list, **EXHIBIT(jus25a02)**. There are three sections in HB 197 that compare to the bills being heard.

HEARING ON SB 13, SB 37, SB 317, SB 318, HB 140, HB 195, HB 500

Sponsors:

REP. TIM DOWELL, HD 78, KALISPELL - HB 500
REP. CHRISTOPHER HARRIS, HD 30, BOZEMAN - HB 140
REP. CINDY YOUNKIN, HD 28, BOZEMAN - HB 195
SEN. DALE MAHLUM, SD 35, MISSOULA - SB 13 and SB 37
SEN. MIKE WHEAT, SD 14, GALLATIN COUNTY - SB 317 and SB 318

Proponents and Opponents:

Dave Galt, Director of the Montana Department of Transportation
Brenda Nordlund, Department of Justice
Marty Lambert, Gallatin County Attorney, Montana County Attorneys Association
Tim Reardon, Montana Department of Transportation
Spook Stang, Montana Motor Carriers Association
Jim Kembel, Montana Association of Chiefs of Police
Bill Muhs, Mothers Against Drunk Driving (MADD)
Governor Judy Martz
Mike Ruppert, Boyd Andrew Community Services
Pat Melby, Montana Medical Association and Rimrock Foundation
Mark Staple, Montana Tavern Association (MTA)
Elaine Sliter, Miller Brewing Company
Ed Brandt, Montana Beer and Wine Wholesalers Association
Bill Robinson, Emergency Physician with Deaconess Hospital in Bozeman
Don Hargrove, Montana Addictive Services Providers
Raymond Berg, Montana Nurses' Association,
Mona Jamison, Boyd Andrew Community Services
Kristi Blazer, Montana Beer and Wine Wholesalers Association (MBWWA)
Greg Van Horssen, State Farm Insurance Company and the American Insurance Association

**Ed Zink, Yellowstone Deputy County Attorney and the Yellowstone
County DUI Task Force**

Bill Shearer, Rocky Mountain Interlock

Kevin Devine, MBWWA

J. D. Lynch, Community Corrections and Counseling Service

Mike Barrett, Poet and Letter Writer

Informational Witnesses:

**Mike Ferriter, Administrator of the Community Corrections
Division for the Department of Corrections**

SEN. JEFF MANGAN, President and CEO of Mountain Peaks, Inc.

Opening Statement by Sponsors:

REP. TIM DOWELL, HD 78, KALISPELL, introduced HB 500. This bill increases the time a DUI offenders driver's license can be suspended; it increases the potential jail time; and it requires community service as a condition of that conviction. The first section of the bill involves the revocation provisions, lines 28-30 of page 1. It states that on a second offense, a license can be suspended or revoked for a period of one to three years. Section 2 holds that any suspension of a license shall include community service. If there is a first offense for a DUI, the incarceration period would change from 24 hours to 10 days at a minimum and from six months to a year for a maximum. The first 24 hours would include jail time. For the second offense, the time is changed from seven days to 90 days minimum and six months increased to a year for a maximum. The provision for three days of jail time would remain. Community service is available as part of any suspended sentence. For the third offense, the time is changed from 48 days to 120 days minimum and a year for the maximum. The community service provision is included.

He further claimed that European countries are suspending driver's licenses permanently. He considered that option because DUIs have been taken as a trivial condition of our society for too long.

REP. CHRISTOPHER HARRIS, HD 30, BOZEMAN, introduced HB 140. This bill accomplishes three objectives in the area of non-incarceration. It includes more tools for penalties for third and subsequent DUI offenders. The penalties include: a revocation of the license up to 20 years; the forfeiture of the vehicles owned by the offender; and, if the offender receives a probationary license, that license will be stamped with the letters "DUI". The purpose of stamping the license is the car rental agency will be put on notice, if the offender attempts to rent a vehicle. The purpose of the forfeiture of the vehicles

owned by the offender is to take the weapon of destruction out of the hands of the third DUI offender. Vehicles in the hands of a drunk driver are murder weapons. This includes all vehicles even if the DUI offender owns a fleet of vehicles. During the hearing on this bill in the House Judiciary Committee, amendments were contemplated to state that as an alternative to the forfeiture, the vehicles could simply be disabled. The discussion in regard to these amendments was that many of these vehicles would be "junkers". Another amendment contemplated was to give the court the revocation authority. Both amendments would improve this bill. Many of the white crosses on Montana's highways are a result of drunk drivers.

REP. CINDY YOUNKIN, HD 28, SOUTHEASTERN GALLATIN COUNTY and BOZEMAN, introduced HB 195 which was brought at the request of the Montana Department of Transportation (MDOT). This bill is necessary for the state to comply with federal mandates. In regard to the fiscal note, under long range impacts, the summary states: "Although there is no net fiscal impact to the Department of Transportation from this legislation, failure to pass this bill will result in the transfer of \$5.6 million per year from the federal aid construction program to the highway traffic safety program." - **EXHIBIT(jus25a03)**. The bill increases the penalties for second and subsequent offenders by increasing the penalties for the time served. A second DUI offense includes penalty provisions from 48 hours to five days of imprisonment and the execution of the first five days may not be suspended. For a subsequent offense, the penalty provision would be from 48 hours to ten days. Again, this penalty could not be suspended. She further stated she had asked the House Judiciary Committee to increase the fines which included the fine of \$100 increasing to \$300 and \$500 increasing to \$1,000. The Committee did so and the bill passed the House with the amendments.

This legislation is the right thing to do. We need to send a clear and strong message to the people of Montana that we will no longer condone drunk driving and the offender will be facing more than a slap on the wrist.

SEN. DALE MAHLUM, SD 35, MISSOULA, introduced SB 13. He explained that SB 13 amended the provisions in state law that set the threshold for blood alcohol content (BAC) from 0.10 to 0.08. In alcohol related crashes, the State of Montana has the highest fatality rate. In 2001, 45 percent of all traffic deaths in our state were alcohol-related deaths. In that time, 104 people have died in these crashes. The National Highway Traffic Council estimates between 1998 and 2000, alcohol-related crashes cost Montanans over \$400 million. National studies have shown significant driver impairment with a BAC over 0.08. The U.S.

Department of Transportation, as part of the highway funding bill, has determined that states must adopt a 0.08 BAC level or lose a portion of the federal aid funding. This would cost the state approximately \$114 million over a period of nine years.

SEN. MAHLUM also introduced SB 37. He explained that this bill would provide that the first offense would not go on the record as a DUI, if a traffic accident was not involved. He used the scenario of 25 year old who was driving home from downtown Missoula and going home to the University of Montana. It could be 11:00 p.m. and he had been to a bar downtown where he had a few beers. He was then stopped by a police officer who noticed one taillight out on his vehicle. If his BAC was 0.10, he would be incarcerated. This is a great embarrassment to the young person and his family. At age 25 with a DUI offense, the owner of a 2000 Chevrolet pickup would find his insurance premium increasing from \$1,216 to \$6,670. He or she would no longer be able to have a car or the individual may have to leave school. On page 1, line 28, the language states this violation will not go on record in regard to insurance. However, if a second DUI offense occurs, the first DUI offense is added to the second DUI offense and all charges are applied. The fine on the first offense is \$750 to \$1,000. The fourth DUI offense would give the judge the discretion to place the individual in prison. The judge could, with the individual's written permission and after conferring with his or her family, allow the individual to take a drug called anti-abuse (alcohol sensitizing agent such as disulfiram or calcium carbimide). This drug would need to be ordered by the judge and administered by a professional. If the person discontinued using this drug, the fourth sentence would be applied. The person would be ordered to prison and his or her sentence would run concurrently as if the person had not been on the drug in the first place. In a rural area, law enforcement would administer the drug.

{Tape: 1; Side: B}

SEN. MIKE WHEAT, SD 14, GALLATIN COUNTY, introduced SB 317. He explained the bill would increase fines from first through third offense DUI and it further required that 25 percent of the fines be used to help fund treatment and education programs. It is important that some of the money collected go to help people who have an alcohol problem.

SEN. WHEAT introduced SB 318. He stated this bill involves persons with a third offense DUI. It would revoke the person's driver's license for a period of one year which must continue for that year. It also revokes the right to register the vehicle for one year. The individual would need to complete a 90-day

inpatient treatment program and submit written verification on the completion of the program. The intent of the bill is to encourage people with a drinking problem to seek meaningful treatment.

CO-CHAIRMAN SEN. GRIMES noted the Alcohol, Tobacco and Other Drug Control Policy Task Force Recommendations, **EXHIBIT(jus25a04)**, was provided to the House and Senate Joint Committee members.

Proponents' and Opponents' Testimony:

Dave Galt, Director of the Montana Department of Transportation, rose in support of HB 195 and SB 13. He claimed it was time for the state to address the alcohol-related problems on our highways. The 0.08 issue takes money from the Highway Special Revenue Account. This money is lost. Starting in federal fiscal year (FFY) 2004, this would amount to \$3.8 million. In FFY 2005, this amount would be \$7.7 million; FFY 2006 - \$11.5 million; and FFY 2007 - \$15.3 million. The federal government will hold these funds in abeyance and they may be released up to the year 2007. The funding would then be reverted to other states.

In regard to the provision in HB 195, the funds are transferred from the core construction program into the 402 Highway Safety Program. This program includes hazard elimination projects or the funding may also be used for enforcement, advertising, education, etc., that works toward reducing impaired driving in Montana. Traditionally, these funds have been used for mobile data and radio systems for law enforcement as well as education and advertising.

CO-CHAIRMAN SEN. GRIMES noted that if the Subcommittee was able to prepare an omnibus bill, it would be sent to the House. Another full hearing would be held on the bill.

Brenda Nordlund, Department of Justice, rose in support of HB 500, HB 140, HB 195, SB 13, SB 317, and SB 318. She did not support SB 37. House Bill 500 changes the driver's license suspension on second and third offense to three years and five years respectfully. Section 61-8-204(2)(b) contains reference to second or subsequent DUI offenses within a five year period. This does not affect a felony DUI. The felony DUI license revocation is in 61-5-205. In regard to the motor vehicle division, this would be a felony under a one year revocation but the bills before the Joint Committee today only affect second or subsequent offenses within a five year period.

House Bill 140 should include a floor for driver's license suspension or revocation on a second subsequent or felony DUI.

This floor should be applied across the board to every defender who has a conviction in that area. This administrative action would go forward from the date of conviction through the period set. If judicial authority is given in the course of the criminal sentencing for the judge to determine a period above the floor, this should be placed in the criminal sentencing provision. She further noted this period should not exceed the court's jurisdiction over that defendant.

House Bill 195, the repeat offender bill, needs to comply with the T21 repeat offender mandates in regard to the discretion allowed regarding ignition interlock. She suggested that 61-8-442 be carefully reviewed in the bill. There is a reference to whether or not the ignition interlock devices are readily available. This would make it a factual determination and not a mandate. She provided a handout of the compliance criteria for purposes of T21, **EXHIBIT(jus25a05)**. In T21, there are three alternatives that deal with vehicles or the offender. A requirement that applies across the board, is a hard driver's license suspension and HB 195 fulfills that requirement. The menus of choices include: vehicle impoundment, vehicle immobilization, or an interlock device. These choices run in different periods. She encouraged the Committee to consider the problems of applying an ignition interlock to each and every vehicle owned by an individual. The law will allow a restriction placed on the individual and this can be monitored at the Department level.

Senate Bill 13 should be easy to implement and it is the right thing to do. On SB 318, coordination will be critical in regard to the driver's license suspension and vehicle registration. There is an implied consent statute which will cause driver license consequences for testing refusals that are less than what is being proposed for DUI convictions.

Senate Bill 37 is problematic. As a matter of public policy, a DUI conviction is a public record. All traffic convictions are reported to the motor vehicle division. They are placed on driver's records as a matter of law. Senate Bill 37 states that a first conviction, not involving a traffic accident, may not be recorded against a driver's record. If a first offense is not recorded against a driver's record, there will never be a second offense. If the Department of Justice is not the clearinghouse for record keeping, law enforcement will not know what happens. If the issue is with insurance premiums, Title 33 should be addressed. She further provided a handout which showed a compilation of all the driver license suspension and revocation actions taken under law, **EXHIBIT(jus25a06)**.

Marty Lambert, Gallatin County Attorney, Montana County Attorneys Association, rose in support of HB 195 and SB 13 on behalf of the Montana County Attorneys Association. As an individual county attorney, he rose in support HB 500, HB 140, SB 317, and SB 318. In regard to HB 140, he particularly like the revocation situation. However, in regard to Section 3, there is a reason why so few of these vehicles are being forfeited and that is because the vehicle is usually worthless. When the security interest is protected, there is seldom anything left. The fiscal note for HB 140 does not state that there will be significant local government impact. He supports SB 317 but it doesn't accomplish anything to pass a law requiring 25 percent of the fines to go to a state special revenue account used by DPHHS to fund residential alcohol treatment programs. It is necessary to have the money appropriated for this purpose. The money goes to the General Fund and is spent for other purposes. There is a concern among the general public that there is a law on the books and the money is being sent to the state, but the money is not being returned to the counties and cities for the purposes set out in the law. He and the Montana County Attorneys Association oppose SB 37. In the last session there was a bill introduced that made a felony DUI a misdemeanor. Another bill mandated no incarceration for felony DUI offenses, regardless of the number of offenses. It did provide for 60 days of treatment. He believes both bills passed the legislature. The Governor vetoed one and the other became law. A first offense DUI is serious. It is illogical to treat the crime differently based upon whether an accident occurred. Insurance companies will know about the provisions in this law and will pass the expenses off on ratepayers.

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Tim Reardon, Montana Department of Transportation, requested the opportunity to work with the subcommittee in regard to SB 318. Their concern is the hard suspension of a driver's license for the first year. The federal requirements call for the first year suspension of the driver's license to be absolute and not allow for probationary licenses.

Spook Stang, Montana Motor Carriers Association, rose in support of all the bills with the exception of SB 37. He requested the Committee keep in mind the federal motor carrier safety regulations and the regulations that apply to commercial motor vehicle driving and CDLs to make sure that the standards are not less than required by commercial code. They are opposed to SB 37 because it provides for masking of driver's licenses. The Montana Motor Carriers, the Western Trucking Association, and the Multi-State Highway Transportation Association have all taken

stands that masking of driver's licenses is problematic for the commercial motor business. This would allow a person with a commercial motor vehicle to receive a DUI while driving their personal vehicle and not have this on their record. One of their members would not be able to know that the person had a DUI on his or her record, hire that person, and place the person behind the wheel of an 18 wheeler.

Jim Kembel, Montana Association of Chiefs of Police, rose in support of SB 13 and HB 500. They oppose SB 37. On page 4, line 3, he noted law enforcement is not in the business of administering drugs to DUI offenders. They are concerned with the liability that may be created in such a program. Also, it would involve a monumental task to track the offenders.

Bill Muhs, Mothers Against Drunk Driving (MADD), rose in support of HB 140, HB 500, and SB 317. With respect to HB 195 and SB 13, they have previously submitted their supporting testimony. He provided his written testimony, **EXHIBIT(jus25a07)**. Senate Bill 37 would be a setback in the fight against drunk driving. It is also incongruent with other legislation. Over 90 percent of those convicted of a first time DUI will spend no time in jail because they did not cause a crash or kill someone. It is estimated that 65 to 70 percent of DUI offenders are first time offenders. Mandatory jail time is a proven deterrent that would be lost under this bill. Most drunk drivers have driven while intoxicated dozens of times, and sometimes hundreds of times, before they are caught for the first time. If the insurance companies are unable to increase premiums for a single DUI, the additional costs of drunk drivers will be picked up by those who do not drink and drive. Drunk driving accounts for 18 percent of our automobile insurance premiums in Montana. This bill delays treatment until the fourth DUI when most experts recommend mandatory assessment after the second DUI and mandatory treatment if assessed for alcohol dependency.

Governor Judy Martz rose in support of SB 13. In the past year and a half, she has seen several families devastated by drinking and driving. Many thousands of Montanans have experienced similar tragedies. In Montana, 45 percent of traffic fatalities are alcohol-related deaths. According to the National Highway Transportation Safety Administration, one out of nine intoxicated drivers, in fatal crashes across the nation, were repeat offenders with a prior DUI conviction in the past three years. In Montana, that figure is three out of ten. National statistics gave Montana an "F" for its drunk driving laws in the year 2002. The rating addressed the need for increased penalties for repeat offenders, a need to reduce the legal BAC limit from 0.10 to 0.08, and the need to address open container laws. It is time

for Montana's DUI laws to put aside the thought that drinking and driving is socially acceptable. In the national study, 0.08 BAC laws are proven effective measures to reduce alcohol-related traffic deaths. Studies have shown a six to eight percent reduction in alcohol-related traffic deaths in states following the passage of such legislation. She also expressed support for SB 39 and HB 195. Senate Bill 39 addresses open container laws in Montana and HB 195 addresses repeat DUI offender laws. Driving in Montana is a privilege, not a right. With regard to drunk driving laws, she is confident that Montana will go from being one of the most lenient states in the nation to being one of the toughest.

Mike Ruppert, Boyd Andrew Community Services, stated that there appears to be a flow to bury the notion that DUI is a nuisance. House Bill 500, which deals with the increased driver's license suspension, is of great value from a treatment point of view. The driver's license is the means by which they can force people to comply with treatment recommendations. In regard to SB 318, the notion of a mandatory 90-day residential treatment program is problematic from a treatment point of view. The problem involves making this residential. From a therapeutic point of view, few people will need 90 days of residential treatment. Some discretion needs to be made in the type of treatment that is provided. Senate Bill 37 is problematic in that it maintains the notion the DUI is a trivial offense and also makes it more trivial. The notion of multiple offenders receiving antibus as their therapeutic treatment is very regressive. In the treatment business, antibus was commonly employed in the 1950s.

Pat Melby, Montana Medical Association and Rimrock Foundation, rose in support of all bills except SB 37. He raised a concern in regard to SB 318. They questioned the payment mechanism for treatment. There isn't a facility in Montana that provides a 90-day in-patient treatment program. Most programs are under 30 days. The type of treatment as well as the length of the treatment should be more flexible and based on medical practice.

Mark Staple, Montana Tavern Association (MTA), rose in support of all the bills. They believe no consideration should be given for multiple offenders or high BAC offenders. Supervision, suspension, forfeitures, and jail time are not deterrents for these offenders. They encourage increased penalties for repeat offenders and suggested ankle bracelets and house arrest for these offenders. They do not believe any consideration should be given a first time offender, repeat offender, or high BAC offender who causes an accident, injury or property damage. They support the 0.08 legislation but it will cause Montanans who were heretofore law abiding citizens to become lawbreakers. A person

who has had a glass or two of beer or wine with dinner may still be able to drive conservatively and responsibly. They do support SB 37. It increases the fine for first offense DUI. It makes an allowance for a first DUI offense, if there is no accident, injury, or moving violation involved. A low BAC could be added. A 0.16 BAC is indicative of a problem. Those who are intoxicated, know it. If they choose to drive and are stopped, they will refuse to take the breathalyzer test. There ought to be an incentive to take the breathalyzer test. Proving a low BAC could provide for some of the considerations in SB 37. If a first DUI offense was not on the record, but a second DUI offense included substantially increased penalties, this would provide a great incentive to take the test and go forth and sin no more. It is not a freebie and does not trivialize DUI. It does suggest that there is a difference between 0.081 and 0.16. It gives the person an incentive to plead guilty which would eliminate jamming our court system with people who do not plead guilty. It would also give an incentive for the person to take the test and this would help prosecutors who oftentimes do not have that tool. The deferred penalty could be useful in obtaining a guilty plea. He suggested using SB 37 creatively to free up resources so the concentration can be on the high BAC offender and the repeat offender.

{Tape: 2; Side: B}

Elaine Sliter, Miller Brewing Company, stated that Miller Brewing Company is working across the nation on a program called, "Tough Laws - Safe Roads". They are especially interested in addressing chronic drunk driving and repeat offender laws. Their model legislation has proven effective in some states. Four states have passed the entire package. She spoke in support of SB 13, HB 195 and HB 500. It is important to send the message that if a DUI offense happens once, the person is wrong. A second or subsequent DUI offense is absolutely inexcusable.

Ed Brandt, Montana Beer and Wine Wholesalers Association, remarked that they support all the bills including the concepts in SB 37. The 0.08 BAC is a situation that was forced on the state. Debates are still ongoing as to whether or not 0.08 legislation is truly effective. It is important to give consideration to the reduction in the long term consequences for a first time low BAC offender. In regard to reaching a 0.08 BAC level, most literature states that a 170 pound male could drink four beers in one hour and still have a BAC lower than 0.08. He didn't believe this to be true because there are numerous circumstances which affect this level. On an empty stomach, two beers within an hour's time would cause a person to be close to be at 0.08. Other factors fluctuate BAC to include metabolism,

use of medication, and fatigue. A low BAC for the first time offender should be given some consideration and included in the bills to make the DUI laws effective, workable and a deterrent.

Bill Robinson, Emergency Physician with Deaconess Hospital in Bozeman, rose in support of all bills except SB 37. He stated during the time of this hearing, at least three people have already died from drunk driving in our country and over 100 persons have been injured. It is rare in public health circles to pin point a single cause that reeks as much havoc as drunk driving. The medical community has favored more stringent drunk driving bills for a long time. The American College of Emergency Physicians have supported the principles embraced by this legislation. One of the most difficult parts of his job is to face a family with the news that one of their loved ones has been injured or killed. At least 20 persons in this room will face some kind of news about a drunk driving accident that will personally involve them. He opposed SB 37 because the first offense of drunk driving is the tip of the iceberg. More than likely, this person has driven while intoxicated many times before he or she has been caught and one out of three will continue to be caught with repeat offenses of DUI. Diminishing the sanction for the first time DUI sends the wrong message. It has been shown that swift and significant sanctions are the only answer to this problem. He further stated that anti-buse has been around for a long time and has not proven to be the solution to the problem of alcohol abuse.

Don Hargrove, Montana Addictive Services Providers, rose in support of all bills with the except of SB 37. Social pressures and cost of insurance are matters of prevention. The emphasis on treatment and community services in the bills is very positive. In SB 318, they resist the mandate of 90 days of residential treatment. This tends to ignore the judgement of the professionals and the best use of resources and current practices. Driver's license suspension and the inability to drive is the most effective tool available.

Raymond Berg, Montana Nurses' Association, provided written testimony in support of SB 13, **EXHIBIT(jus25a08)**.

Mona Jamison, Boyd Andrew Community Services, rose in support of all bills but did have some reservations in regard to SB 37. This legislation has the opportunity to make a statement about Montana and our culture. Having one of the highest death rates from drunk driving was not caused by unimportant reasons. We have a culture that encourages drinking and driving. It is part of our social life. This is the time to make the statement that drinking and driving will no longer be tolerated in Montana.

This is not about having one or two drinks. These bills are a statement about responsibility and consequences. It is legal to drink but there should be no flexibility in regard to drinking and driving. Senate Bill 37 sends a mixed message.

Kristi Blazer, Montana Beer and Wine Wholesalers Association

(MBWWA), remarked the MBWWA consists of 27 small business in the state who sell beer and wine to retailers, not consumers. They have always promoted the responsible consumption of their products. The real traffic safety problem is the high BAC driver and the repeat offender. Very heavy penalties should be levied against those individuals. They support SB 37 although they had nothing to do with the creation of this bill. They request that a low BAC be added, a requirement for the individual to take the breathalyser test in order to obtain the advantages of the bill, and the same penalty be involved. This bill is about stigma. A penalty is imposed by the judge on the day of sentencing. Senate Bill 37 addresses collateral items to include the offense not becoming a part of the record and significant increases in insurance premiums. This bill recognizes the difference between offenders. The social drinker is a responsible person and may not realize that he or she is over the limit. This is a different situation from the 0.20 BAC drinker who runs into the back of a parked police car. The two offenders should be treated differently on the first offense. Her favorite amendment to the U.S. Constitution is the Tenth Amendment which is the state's rights amendment. Montana is unique and independent. There is a difference between a Chicago businessman who quaffs down four martinis and then gets on the turnpike to go home and a Montana rancher who has been working in a hot field all day and drinks a couple of cold beers before driving the 20 miles back to town.

Ms. Blazer further noted that over the past five years, states have gradually been forced to move to a 0.08 BAC level. There are only 18 states that remain at 0.10. Each one of those states has been working on graduated system of penalties to recognize the difference between offenders. Nearly all of these proposals have failed due to the federal government's strings attached to the funding. One of the mandates is that the penalties imposed on a 0.08 drinker need to be the same as the penalties imposed on a 0.10 drinker at the time that the legislation is passed. Iowa has a plan to allow the first time offender to obtain a permit to drive to work the day after the accident. She provided a handout explaining Iowa's proposal, **EXHIBIT(jus25a09)**.

Ms. Blazer further remarked that she currently pays close to \$3,000 per year for auto insurance. She has heard that if she received a DUI her insurance would increase 100 to 300 percent. She urged support of SB 37, the anti-stigma bill.

Greg Van Horssen, State Farm Insurance Company and the American Insurance Association, claimed that State Farm Insurance Company would support any measure that will increase the safety of Montana's highways. He spoke in opposition to SB 37 because it would allow critical information to be taken away from insurance companies that is used to forecast future risks. Insurance companies are in the business of predicting future risks and targeting insured's appropriately. Driving records are key to the insurance company's ability to increase future risk. This includes information regarding the first DUI. Actuaries maintain that a person's choice to operate a vehicle while under the influence of alcohol is a big red flag. State Farm Insurance Company will refuse to insure a person who has been convicted of a first DUI because it is also predictive of the future. A first DUI is not necessarily the first time the person has driven under the influence of alcohol, it is simply the first time they have been caught. Actuaries in his company indicate that the first DUI is a critical predictor of future risk. Senate Bill 37 removes this information from the insurance company. If this critical piece of predictive information is not provided for insurance companies, the assumption will need to be made that everyone has "one under their belt". Insurers will have to raise premiums for all drivers and this switches the burden to everyone including the responsible driver.

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Ed Zink, Yellowstone Deputy County Attorney and the Yellowstone County DUI Task Force, spoke in support of all bills except SB 37. A person's BAC is a simple mathematical formula which includes the amount of ounces of alcohol consumed, the person's weight, the time in which it was consumed, and that person's individual metabolism rate. Gender is also a factor. He took exception to the earlier statement that one could have a couple of beers and be magically at a 0.08 BAC level. It takes a great deal more alcohol to reach that point. The reference to a low BAC is not reflective of the dangers posed by a person with an 0.08 BAC. He has prosecuted numerous cases involving serious injury crashes or deaths where the BAC was measured shortly after the accident at 0.085 BAC, an 0.095 BAC, or 0.10 BAC. It is not just the high BAC drivers who pose a danger on our roads.

Senate Bill 37 would cause a tracking nightmare. A person could be prosecuted in one county and received his or her one "freebie". This person could show up in another county, state that they have no priors, and would be provided another "freebie". Someone at the MDOT will need to monitor the information, but it will not be accessible to law enforcement because it will not be a part of the certified driving record.

Significantly increased insurance premiums following a DUI conviction is a tremendous deterrent. Montana has two DUI laws. Driving under the influence is in 61-8-401 and driving with a BAC above 0.10 is in 61-8-406. The two offenses are not stacked. A person could receive a DUI conviction and later find a lenient prosecutor to amend the second offense to a 61-8-406. This gives a dangerous person two "freebies". In Yellowstone County there are approximately 105 to 110 felony DUI filings and convictions per year. If offenders are given a choice to stay out of jail by using an antibus program, more than one out of ten of the convicted felons will jump at this chance. He also saw confusion in regard to the term "traffic accident". Would this include a small fender bender, sliding into an intersection and bumping a stop sign, and/or a minor rear end collision? There will be increased litigation in regard to the legislature's intent in this bill.

Bill Shearer, Rocky Mountain Interlock, stated that they are in support of any bill that will stop drinking and driving. A second and subsequent offender currently receives a letter from the Department of Motor Vehicles stating they may receive a probationary license if they pay \$100, take the test, and have an ignition interlock installed on their vehicle. There are two vendors in the state. Two percent of the second and subsequent offenders use the ignition interlock.

Kevin Devine, MBWWA, rose in support of all the bills. They encourage lawmakers to get tough on repeat and high BAC offenders. A 0.08 BAC is not a panacea to eliminating traffic fatalities. The high BAC repeat offender needs to pay the price for endangering public safety.

J. D. Lynch, Community Corrections and Counseling Service, rose in opposition to SB 37. They have a concern regarding the fourth DUI offense aspect of the bill. The average BAC for a fourth DUI offense is 0.207. There is no magic pill for this problem. It takes the treatment of chemicals and education to address the problem.

Informational Witnesses:

Mike Ferriter, Administrator of the Community Corrections Division for the Department of Corrections, spoke as an informational witness. He oversees the felony DUI facility at Warm Springs. This facility has been in operation since February 1, 2002. Currently there are 137 offenders in the facility. Their occupant rate is 140. The 2001 Session made changes to the felony DUI law which calls for a 13 month commitment to the Department of Corrections. There is a provision that appropriate

offenders can go to a treatment facility in lieu of the full 13 months. Since December 31st, 272 felony offenders have entered the DUI facility at Warm Springs. One hundred and eighteen have completed the program and 110 of those offenders are still in the community under probation supervision. The program is successful.

SEN. JEFF MANGAN, President and CEO of Mountain Peaks, Inc., remarked that they are the other vendor that provides ignition interlock services across the state. Of the thousands of DUI convictions in Montana every year, there are approximately 130 interlock units in vehicles in Montana today. The cost is approximately \$2.00 per day to the offender. Interlock units provide reliable statistical data that goes back to the court system or to the Department of Motor Vehicles.

Proponents' and Opponents' Testimony - Continued:

Mike Barrett, Poet and Letter Writer, rose in opposition to HB 500 and SB 317. He has provided letters to the Committee with the answer to preventing excessive drug use. The answer is pervasive energy control programing in schools, classrooms, TV, radio, and media. Pervasive energy repeats errors over time. If everyone followed driver regulations there would not be any errors on the highways. If your stomach is empty, one pill or one small glass of alcohol can cause near or immediate unconsciousness. Common sense information on TV or radio would be wise.

Questions from Committee Members and Responses:

REP. BRAD NEWMAN noted that currently DUI felons are sentenced to a six to thirteen month period of incarceration that can be met by treatment and then a period of probation to follow. While this program may be very effective in intervening with the first time DUI, he asked **Mr. Lambert's** opinion in regard to the current statute which states that DUI five, six, seven, etc., fall into the same sentencing categories of a six to thirteen month period of incarceration followed by probation. **Mr. Lampert** maintained that the statute is inadequate. After the 13 month sentence, the maximum the court may add for probation is four years. Ten years would be more appropriate. If the Watch Program works, fewer people should have their probation revoked.

REP. NEWMAN asked the same question of **Mr. Ferriter.** **Mr. Ferriter** maintained that so far things have gone well with the offenders who have been released from the Watch Program. The average offender in the program has had over six felony DUIs. In terms of penalty, it does not seem to be fair that someone who

has committed a fourth DUI is treated the same way as someone who has committed thirteen DUI offenses. They believe the treatment will make the difference.

{Tape: 3; Side: B}

SEN. DAN MCGEE remarked it was very important for this Committee to understand the issue of successful treatment. The majority of people who go through treatment will repeat their offense at some time. He asked **Mr. Ruppert** to explain the necessary elements for success. **Mr. Ruppert** noted that treatment usually fails. A majority would mean a success rate of 50 percent or higher. They do not see this success rate with correctional referred clients. The more there is to lose, the greater the chance of success in treatment. The fear of loss of one's family or one's job is what is needed to become sober. Their gauge of success is abstinence. They believe this is a disease that cannot be cured but only arrested. The only way to arrest the disease is complete abstinence from all mood altering chemicals. For people whose drug of choice is alcohol, abstinence for them would include marijuana and prescription sedatives. Some of their funding sources view success as a reduction in consumption, as well as a reduction in legal and/or employment consequences.

SEN. MCGEE questioned the mind set needed to achieve "success" in a treatment program. **Mr. Ruppert** claimed that studies out of the Hazelton Institute in Minnesota, which is the premier chemical dependency treatment and research institute in the United States, show motivation upon entry into treatment is unrelated to outcome. Motivation when one leaves treatment is related to outcome. This presumes quality treatment.

SEN. MCGEE asked the same question of **Mr. Ferriter**. **Mr. Ferriter** stated that their recidivism definition is upon release, a offender does not enter a correctional facility for three years. According to self-reporting of the population of 272 in the Watch Program, the average length of time an offender stayed clean was a little over seven months. If this can be stretched out to three years, it would be a step in the right direction in terms of success.

REP. DIANE RICE raised a concern about what would be done with the people who would now become criminals. **Mr. Ferriter** stated the probation, parole, and community corrections areas are where the solution lies. The Watch Program is a huge step in that direction. Instead of spending many years in incarceration, there is a 13 month limit. Built-in incentives are also included. New laws continue to contribute to their population.

DUI offenses cause numerous problems for society. Creative options need to be sought to help reduce the recidivism rate.

REP. RICE remarked that Gallatin County recently turned down an \$8 million levy for a new jail. She questioned where the offenders would go after they had been arrested. How would these offenders be handled locally? **Director Slaughter** remarked that his counterpart in Oklahoma recently made the comment that they had about as much law and order as they could afford. For punishment in America, we take away an offender's liberty for a period of time. The deep and root causes of over 92 percent of the people in prison today are there due to drug and alcohol use. At some point during the offender's incarceration where the Department has control over their supervision, it is important to deal with the root causes of their problems instead of dealing with the symptoms. The Watch Program is a honest attempt to accomplish this. In the Watch Program, the offender works 16 hours a day. They participate in a family unit in which stress and pressure are placed on the individual. Building new jails involve many factors to include siting. The Department oversees more than 9,000 people who have committed felonies.

CO-CHAIRMAN SEN. GRIMES referred to the document containing the compilation of driver license suspension and revocation actions taken under law (Exhibit 6 provided by **Ms. Nordlund**), and asked **Ms. Nordlund** to interpret the statistics provided. **Ms. Nordlund** noted that the information provided simply included numbers. In the ten year span involved there was decrease in the number of DUIs and BACs reported to the Motor Vehicle Division upon which they took a driver's license action. They are seeing very constant statistics on felony DUIs. This entered their system in 1996 with 76 offenses. Currently that number is 210 offenses. To draw trends it would be necessary to add the first DUIs, the first BACs, the second or subsequent DUIs, the second or subsequent BACs, and the felonies. In calendar year 2001, they dealt with 5,781 driver's license actions based on DUIs and BACs. In 2002, this number was 5,347. Although this is a small decrease, it is a huge number.

CO-CHAIRMAN SEN. GRIMES noted that the bills before the Committee involved increasing penalties for offenses. He asked whether increased penalties would be a deterrent and, thereby, have a positive effect on statistics. **Ms. Nordlund** maintained the numbers from 1990 to 2002 show increased penalties are beneficial. In 1995, the refusal license consequence was changed from 90 days to six months for a first time refusal. There has been a 15 percent decrease in implied consent testing refusals over that period of time.

CO-CHAIRMAN SEN. GRIMES remarked that the Alcohol, Tobacco and Other Drug Control Policy Task Force had been provided information from Billings in regard to 4,000 unpaid penalties. He asked whether there was an incentive for those offenders to pay their penalties. **Mr. Lambert** claimed that offenders do not want to go back to jail after serving the 24 hour portion of their penalty. By extending the time an offender is on probation, the court has supervision over the offender. This does become a resource question.

CO-CHAIRMAN REP. SHOCKLEY noted that HB 195 included "soft sanctions". **Mr. Reardon** affirmed that HB 195 did include "soft sanctions" for the diversion of federal funds.

CO-CHAIRMAN REP. SHOCKLEY questioned how much funding the state would lose by not complying with the federal requirements. **Mr. Reardon** claimed this amount would be approximately \$5.6 million.

CO-CHAIRMAN REP. SHOCKLEY further questioned if the amount would also include funding lost in regard to the open container law. **Mr. Reardon** believed this would be a separate \$5.6 million loss. The total amount lost would be approximately \$11 million.

CO-CHAIRMAN REP. SHOCKLEY summarized if HB 195 was passed and the open container bill did not pass, we would lose half the funding. **Mr. Reardon** clarified the funding would not be lost but it would not go to the core construction program.

CO-CHAIRMAN REP. SHOCKLEY asked if SB 37 would cause problems with federal requirements. **Mr. Reardon** maintained the provisions in SB 37 regarding insurance guidelines would not impact federal requirements. Federal requirements address the repeat offender.

SEN. WHEAT asked whether any deferred funds could be used for treatment programs. **Mr. Reardon** explained the funding currently goes to the 402 Program at the MDOT, which includes traffic safety and education; or to the 154 Program, which is the hazard elimination program. He has made a request to the Federal Highway Program for more information regarding whether or not the funding is available for other purposes.

SEN. WHEAT asked **Mr. Lambert** to describe the treatment court in Gallatin County. **Mr. Lambert** explained that a small group of professional individuals devoted a fair amount of time to the individuals. There are approximately fourteen individuals currently in the program and sixteen persons have graduated. There has not been an instance of recidivism. An important part of the program is an 11 month contract with the offender. For the first few months, they are subject to random urinalysis tests

any time of the day or night. They appear in court on a weekly basis. Supervision is lessened as the individuals become more successful and gain confidence in the system. If there is a relapse, the program can be extended by a few months. Jail is the ultimate sanction. Gainful employment is a requirement of the program. In large part, this program is funded by a federal grant. Gallatin County provides some contribution funds.

SEN. WHEAT inquired whether the bills before the Committee today would help with the treatment court. **Mr. Lambert** affirmed and further noted the individuals who will be back in the community need to be addressed. The bills before the Committee have a full spectrum approach to the DUI problem.

REP. HARRIS asked **Mr. Slaughter** for his insight in regard to repeat DUI offenders. Specifically, he questioned whether he had first hand information from DUI offenders in regard to any program that would make a difference in their behavior. **Mr. Slaughter** noted that in the Watch Program, he has spoken with these offenders. Some have mental health issues which are hard to address. Some offenders do not know what it is like to be sober for a few days. It is impossible to deal with these offenders while they are using alcohol or drugs because all they are thinking about is their next drink. There is a break from alcohol and drugs during the time they are in jail or prison. In regard to therapy in the community, they do need to live in a family situation. This makes them accountable for many things. Graduates of the Watch Program have expressed the fact that for the first time in their lives they had been held accountable for themselves. They are not trying to impress anyone. The DUI problem is frustrating for law enforcement officers. On too many occasions, he has been called to the scene of an accident, has seen the victims and then put handcuffs on the offender he had arrested a month earlier for DUI.

SEN. PERRY noted that our jails and prisons are overcrowded and very costly. He asked for further information regarding the current use of electronic incarceration and new technologies soon to be available. **Mr. Slaughter** claimed the Department of Corrections has 282 offenders, out of 9,000 offenders, on electronic monitoring. They contract with a company which allows probation officers to use electronic monitoring. They are currently piloting a project in eastern Montana called "voice activation". The offender is called by the computer at off times. The computer has a track of their voice. It also tracks the phone number of the telephone they are using. A series of questions are asked. In the near future, global positioning bracelets will be available to state and local agencies.

REP. GAIL GUTSCHE remarked there are two interlock ignition vendors in Montana. In earlier testimony, it was noted two percent of the offenders use the interlock ignition system. Why is this not being utilized more often? **Mr. Ferriter** explained the only time the community corrections probation and parole officers would use this device is with felony DUI offenders. The 110 offenders who have been released from the Watch Program are all subject to the interlock device, if the probation and parole officer allows them to drive. This excludes many offenders. If they convince the probation officer there is a need to drive, the statute calls for a mandatory interlock device. Most offenders cannot afford a vehicle or insurance.

REP. GUTSCHE noted the opposition to SB 37. Those in favor of the bill brought up an idea to add a low BAC to first time offenders and a requirement to use the breathalyzer. She asked **Mr. Ruppert** if it would be a good idea to separate the individuals who have a high BAC from those with a 0.08 BAC and should allowances be made for these offenders. **Mr. Ruppert** affirmed higher BAC offenders are more likely to be alcoholic because they are used to being drunk. Alcoholism is a progressive disease which can be identified early. A low BAC would not mean the person was not chemically dependent.

REP. GUTSCHE referred to the handout provided by **Ms. Blazer** regarding the Iowa law (Exhibit 9). She noted some lawmakers in other states are considering providing a forgiving mechanism for first time offenders who do not have a high BAC. She further questioned whether it would be possible to address this issue on an incremental basis. **Mr. Ruppert** did not see DUI as a law enforcement activity inflicted upon innocent persons. The people who commit a crime are taking a chance. He is not in favor of reducing consequences at any level. The innocent person is the one in the vehicle which has been struck by a DUI offender. The person behind the wheel with a 0.08 BAC is guilty of a crime. Giving a DUI offender a mulligan, reenforces the notion that DUI is a nuisance crime.

SEN. MCGEE asked **Mr. Lambert** if any fines were used to fund treatment court. **Mr. Lambert** affirmed this to be true. Participants pay for a portion of their therapies but are usually employed at a very low salary.

SEN. MCGEE asked **Mr. Ruppert** whether fines imposed by the court were used to fund Boyd Andrew Community Services. **Mr. Ruppert** noted DUI education and assessment would be paid for by the clients. If the individual is unable to pay, they would still provide the service. Treatment is paid by state collected

alcohol tax, a federal block grant, Medicaid funds, insurance, and the client. Their fees are not paid by fines.

CO-CHAIRMAN SEN. GRIMES asked **REP. HARRIS** to describe the use of a branded driver's license. **REP. HARRIS** explained the predicate provision would be the suspension of the driver's license but this would still allow the issuance of a probationary license. In the case of a third DUI offense, the probationary license must be branded with the letters "DUI". The principal purpose is if the probationary license holder rents a car, the car rental agency is put on notice they are renting to a third or subsequent DUI offender. There would be an associated stigma every time the license was used.

SEN. MCGEE asked whether marking the car had been considered. He further noted the use of a green strobe light. This would be visible day and night. Everyone driving on the roadway would know this individual was on his third or subsequent DUI. **REP. HARRIS** had considered options of marking the car but raised a concern in regard to vandalism being directed at this car. This would be excessive branding. There may be a middle ground to consider.

CO-CHAIRMAN REP. SHOCKLEY noted **Mr. Lambert** testified they did not seize vehicles because it was not cost effective. When the House Judiciary Committee heard HB 140, they believed the vehicles should be seized whether this was cost effective or not. The vehicles are the weapon that causes the problem. County attorneys were instructed to seize vehicles years ago but this has not been occurring. He asked **Mr. Lambert** to address this issue. **Mr. Lambert** stated the seizure needs to be ordered by either the district court or lower courts. The courts are not doing so for a variety of reasons.

CO-CHAIRMAN REP. SHOCKLEY further asked whether the county attorneys are asking for seizure of the vehicles on a regular basis. **Mr. Lambert** did not believe they were.

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SEN. JERRY O'NEIL raised a concern in regard to seizing all vehicles owned by someone convicted of a third or subsequent DUI offense. If the offender was driving his wife's vehicle, this would be included. **REP. HARRIS** explained ownership was a clear dividing line. If the offender owns the car and is on his third DUI, the car will be forfeited. If the owner owns an antique car collection and the cars are driveable, it would be sacrificed. After a second DUI, there is clear notice that the state will take away the offender's weapon of destruction.

SEN. O'NEIL questioned whether consideration had been given to make an offense of loaning a vehicle to someone who has been drinking. **REP. HARRIS** noted that would be a new piece of legislation. His bill addressed vehicles owned by the offender.

CO-CHAIRMAN SEN. GRIMES commented there were many young persons in the audience. He asked **Ms. Jamison** for her comments in regard to behaviors leading to alcoholism. **Ms. Jamison** maintained alcohol impairs the ability to make rational judgments. An individual who drives after consuming alcohol takes on the possibility of hurting or killing himself or herself and/or another human being.

Closing by Sponsors:

REP. YOUNKIN closed on HB 195. She maintained this legislative session will set the tone that drunk driving will no longer be condoned. The young persons in the audience need to take this message home with them because it is their classmates and friends who get killed by drunk drivers. By changing the attitudes of society, we will reduce the number of DUI offenders. The purpose of the bills being heard today is not to penalize people but to keep them from drinking and driving. House Bill 195 passed the House with a 90 to 9 vote. If the bill does not pass the Senate, the funds promised to communities and counties for new highway construction and repair of existing highways will be lost. The highway safety plan funds cannot be used for treatment purposes due to federal requirements. These funds must be used for enforcement of laws prohibiting driving while intoxicated or driving while under the influence. This may extend to probation officers but would not go to treatment. Due to the amendment added in the House in regard to increased fines, there should be a new fiscal note before the Senate Judiciary Committee takes action. The current fiscal note does not reflect the increased revenues as a result of increased fines.

REP. HARRIS closed on HB 140. He claimed this Legislature has a wonderful opportunity to send a very clear message that drinking and driving will no longer be tolerated. This message has not been sent before. The Joint Committees have a opportunity to craft an excellent bill that includes all of the best elements of the bills under discussion. It is the intention of HB 140 to take away the instruments of death and injury. He disagrees with the county attorneys who say it is not cost effective to seize vehicles. The important matter is the vehicles are taken away from drunk drivers. His bill should be amended to make it clear that the demolition or the disabling of the car is also available. Cost effectiveness on that score is not a

consideration. In addition to taking away the instrument of death or injury, we take away the privilege to drive.

REP. DOWELL closed on HB 500. He was pleased to hear all the testimony and witness the interest, in the Committee as well as by the public, to address the problem of DUI. The Joint Committee has a big job ahead of them.

SEN. MAHLUM closed on SB 13 and SB 37. He commented that SB 13 left the Senate on a 49-1 vote. It lowers the BAC legal level from 0.10 to 0.08. Even though there is a residual effect of \$114 million dollars that will be good for our highway construction program, the best thing SB 13 will do for our state is there will be fewer white crosses on the sides of our highways.

Senate Bill 37 was developed to help the people of Montana. He is not advocating lighter sentences. He does not condone drinking and driving. This bill may be before its time. The bills currently before the Joint Committee will keep drunk drivers off our roads. The last section of the bill contains a severability clause. If the Joint Committee finds one good aspect in the bill, remove the rest of the language. In 1997, he thought the Swan River Boot Camp should be used for offenders with third or fourth time DUI offenses. The first time DUI offender usually does not reoffend. The subsequent DUI offender should be put away for years. He does not want them running into his grandchildren traveling home on the Frenchtown road. An original provision of this bill, which was not included in the bill, allowed for \$614,000 in extra fines. The counties and state could split the funds. He wanted to take \$50,000 from each entity and have a \$100,000 fund to allow law enforcement officers to visit each middle school and high school to show them the results of drinking and driving. If law enforcement needed to include pictures of automobiles and victims following a traffic crash, this may have a lasting impression on some youth. Senate Bill 37 was designed to help the people of Montana.

SEN. WHEAT closed on SB 317 and SB 318. He claimed that the Legislature is making a policy decision in regard to the act of drinking and driving. It is necessary to consider all the testimony presented in regard to this problem. It is a social problem. Increased penalties have a positive impact. Early treatment can help people get a handle on their drinking problem.

CO-CHAIRMAN SEN. GRIMES appointed himself, **SEN. MCGEE** and **SEN. CROMLEY** to a Subcommittee. **CO-CHAIRMAN REP. SHOCKLEY** appointed himself, **REP. NOENNING** and **REP. NEWMAN** to a Subcommittee.

ADJOURNMENT

Adjournment: 11:45 A.M.

SEN. DUANE GRIMES, Chairman

REP. JIM SHOCKLEY, Chairman

JUDY KEINTZ, Secretary

DG/JK

EXHIBIT (jus25aad)